

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 23, 2013

Elisabeth A. Shumaker
Clerk of Court

CRAIG S. ROBLEDO-VALDEZ,

Plaintiff - Appellant,

v.

JEWEL WEST; DALE BURKE; CHRIS
BARR; DANIEL DENT; ANDREA
NICHOLS; JOSEPH KELEMAN;
REANNE WILL; RHONDA HADRICK;
LESLIE PAYNE; CARMEN ESTRADA;
CAROL SOARES; SEAN FOSTER;
MR. RODECAPE; DENNIS BURBANK;
KEITH NORDELL; ANTHONY
DECESARO; 2 UNKNOWN D.O.C.
TIME OPS. OFFICERS; MARK
FAIRBAIRN; REGINA ROBERTS;
ANGELA TIDEMANN; MR. MEISNER;
MS. JIMENEZ; TRAVIS TRANI;
BRANDON WITZ; SUSAN JONES; MR.
SPURLOCK; PATSY HARTLEY;
TRACY SWINDLER; MARSHALL
GRIFFITH; PAUL LARSON; MR.
SMITH; MRS. DEFUSCO; UNNAMED
PAROLE BOARD MEMBER;
CHAIRMAN OF PAROLE BOARD;
LINDA MAIFELD; LARRY WATSON;
TINA VALDEZ; HEAD OF OFFENDER
SERVICES; DANIEL LAKE; DANIEL
BARBERO; MS. MORRIS; JAMES
SINNOTT,

Defendants - Appellees.

No. 13-1254
(D.C. No. 1:13-CV-00196-LTB)

ORDER

Before **HARTZ, HOLMES, and BACHARACH**, Circuit Judges.

Plaintiff Craig Robledo-Valdez appeals the district court's order and final judgment. This court entered an order to show cause as to why the appeal should not be dismissed as untimely filed. Mr. Robledo-Valdez filed a response, along with a motion in the district court seeking leave to file the notice of appeal out of time. The district court denied the motion to file out of time. Upon consideration of the response and the record materials, we conclude that this court is without jurisdiction to consider the appeal.

“A timely notice of appeal is both mandatory and jurisdictional.” *Allender v. Raytheon Aircraft Co.*, 439 F.3d 1236, 1239 (10th Cir. 2006) (quotation omitted). Ordinarily in a civil case, a notice of appeal must be filed within 30 days after the judgment or order appealed from is entered. Fed. R. App. P. 4(a)(1)(A). When a timely motion for reconsideration is filed, the time to appeal starts running after the date on which the order disposing of the motion for reconsideration is entered. *Id.* 4(a)(4)(B)(i). Although Mr. Robledo-Valdez is proceeding pro se, he must comply with the same procedural requirements that govern other litigants. *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007); *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

In this case, final judgment was entered March 6, 2013. The motion for reconsideration was filed on March 28, 2013, which was timely. *See id.* 4(a)(4)(A)(iv),

(v), (vi); Fed. R. Civ. P. 59(b), (e). The order denying the motion for reconsideration was entered April 3, 2013. The notice of appeal should have been filed by May 3, 2013. The notice of appeal was not filed until June 14, 2013. Mr. Robledo-Valdez moved the district court for leave to file the notice of appeal out of time, but the district court denied that motion by order entered July 8, 2013.

In response to this court's order to show cause, Mr. Robledo-Valdez argued that this court has jurisdiction because he filed the notice of appeal within 20 days after discovering that his motion for reconsideration had been denied. Our rules provide that a notice of appeal must be filed within 30 days after entry of the order on the district court docket, not after a party learns that the order was entered. Fed. R. App. P. 4(a)(1), (a)(4). The United States Supreme Court has made clear that federal courts "ha[ve] no authority to create equitable exceptions to jurisdictional requirements." *Bowles v. Russell*, 551 U.S. 205, 214 (2007). Therefore, "[t]he time limit has run and we are without jurisdiction under the facts of this case." *Jenkins v. Burtzloff*, 69 F.2d 460, 464 (10th Cir. 1995).

APPEAL DISMISSED. The motion to proceed without prepayment of the filing fees is denied.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk